

12077/181

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STEVEN KAILIN, as parent and next)	
friend of, ETHAN KAILIN, a minor,)	
)	
Plaintiff,)	Case No.: 1:19-cv-04703
)	
v.)	Judge Sara L. Ellis
)	
JACK METCALF, UNIDENTIFIED)	
OFFICERS and CITY OF GURNEE,)	JURY DEMANDED
)	
Defendants.)	

DECLARATION OF DEBORAH A. OSTVIG

I, DEBORAH A. OSTVIG, do declare:

1. That I am an attorney with the law firm of Schain, Banks , Kenny & Schwartz, Ltd. and I am one of the attorney's primarily responsible for defending the interests of the VILLAGE OF GURNEE, the Defendant in the case of *STEVEN KAILIN, as parent and next friend of, ETHAN KAILIN* vs. *VILLAGE OF GURNNE*, Case No.: 1:19-cv-04703.

2. In accordance with this Court's standing order, my assistant on my behalf sent the required motion for summary judgment correspondence and proposed Joint Statement of Material Facts to Plaintiffs' counsel on July 21, 2021. [A true and correct copy of the July 21, 2021 email attached hereto as Exhibit A.]

3. On July 26, 2021, I sent a follow-up email to Plaintiffs' counsel. [A true and correct copy of the July 26, 2021 email attached hereto as Exhibit B.]

4. On July 27, 2021, I received an email from Plaintiffs' counsel requesting additional time. Plaintiffs' counsel also requested that my office resend the July 21, 2021 correspondence and Joint Statement of Material Facts to her. I did so, requesting that she respond by July 30, 2021 in light of the August 9, 2021 deadline to file our Motion for Summary Judgment in this matter and the *Kailin v Greer 19-cv-05188* matter also pending before this Court. [True and correct copies of the July 27, 2021 emails are attached hereto as Exhibits C & D.]

5. On July 30, 2021, Plaintiff counsel sent an email stating she needed until August 2, 2021 to respond. [A true and correct copy of Plaintiff's counsel's July 30, 2021 email is attached hereto as Exhibit E.]

6. Plaintiffs' counsel did not respond on Monday, August 2, 2021.

7. On August 5, 2021, I sent an email to Plaintiffs' counsel stating because I had not received any substantive response to our proposed Joint Statement of Material Facts and there would not be enough time to bring any disputes before this Court as we were under deadline to file our Motion for Summary Judgment in this matter and the *Kailin v Greer 19-cv-05188* matter by August 9, 2021, I would be filing our Statement of Undisputed Material Facts with my accompanying declaration. [True and correct copies of the August 5, 2021 emails are attached hereto as Exhibit F.]

8. Plaintiff responded that she again needed more time to respond to the proposed Joint Statement of Material Facts. I responded that our deadline to file our Motions for Summary Judgment was August 9, 2021 and that there was no longer time to properly negotiate two joint statements of material facts. Plaintiff responded by accusing me of delay

and misrepresenting the summary judgment deadline. She also stated that she would have a response before noon on Friday, August 6, 2021. I responded with the text of this Court's docket entries outlining the briefing schedules for the summary judgment motions in this matter and the *Kailin v Greer 19-cv-05188* matter. I also stated that I would not entertain her responses at such a late date. [Ex. F.]

9. As outlined above, I did not receive a substantive response from Plaintiffs' counsel in time to properly negotiate the proposed Joint Statement of Material Facts in this matter and the *Kailin v Greer 19-cv-05188* matter. As such, I have filed a Statement of Undisputed Material Facts *in lieu* of a Joint Statement of Material Facts.

10. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/Deborah A. Ostvig

Deborah A. Ostvig

Executed on August 9, 2021